IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8835 of 2001

For Approval and Signature:

Hon'ble CHIEF JUSTICE MR DM DHARMADHIKARI
and
Hon'ble MR.JUSTICE RAVI R.TRIPATHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

BIRLA AT & T COMMUNICATION LTD.

Versus

AHMEDABAD ELECTRICITY CO.LTD.

Appearance:

1. Special Civil Application No. 8835 of 2001

NANAVATI ASSOCIATES for Petitioner No. 1

MR KB PUJARA for Respondent No. 1

MR MG NAGARKAR for Respondent No. 2

MR DN PATEL for Respondent No. 3

CORAM : CHIEF JUSTICE MR DM DHARMADHIKARI
and
MR.JUSTICE RAVI R.TRIPATHI

Date of decision: 24/10/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE RAVI R.TRIPATHI)

#. Rule. The learned counsel appearing for the respondents waive service of Rule on behalf of respondents.

#. The petitioner, a company engaged in the business of providing Cellular Mobile Telephone services in the Gujarat Telecom Circle in the State of Gujarat under the licence issued by the Government of India, is approaching this court for the relief that the respondent-Ahmedabad Electricity Company Limited (AEC) be directed to provide electricity supply to the petitioner for its proposed Base Trans Receiver Station (BTS) installations in the building in question in the city of Ahmedabad on usual terms and conditions by charging necessary fees and on production of the structural stability certificate.

#. The petitioner relies upon the order dated 6.9.2001 passed by this Court in a similar matter being Special Civil Application No.6270 of 2001. The learned counsel for the petitioner submitted that the petitioner is ready and willing to abide by the General Development Control Regulations so far as they are applicable to putting up of proposed structure by the petitioner and in particular, Regulation No.21.11 and is ready and willing to file an undertaking before this Court to the effect that the petitioner will be abiding by the said Regulations and also to the effect that the safety aspect will not be compromised in any manner whatsoever.

#. In light of this statement and in view of the fact that the petitioner is ready to file an undertaking, we direct that AEC shall consider the application of the petitioner for granting supply of electricity in accordance with the Rules only for installation of the BTS, Antennae and shelter, without insisting for Building Use (BU) permission. As is ordered by this Court in the earlier matter referred above, "BU permission is not required for installing BTS, Antennae and shelter". The petitioner will be required to file an undertaking as aforesaid to abide by the Regulations by which the structure in question will be governed. The petitioner shall produce before the authorities, a certificate regarding the structural stability of the building on which the petitioner proposes to install the structure (BTS, Antennae & shelter). The petitioner shall also fulfil other requirements of Regulation 21.11 of General Development Control Regulations published by the Government of Gujarat under sub-clause (1) of Clause (4)

and sub-section (1) of Section 17 of the Town Planning Act. The undertaking shall be filed before the court within a week, with a copy to respondent No.1.

#. With the aforesaid observations, the petition is allowed. Rule is made absolute with no order as to costs. Direct Service is permitted.

(D.M.Dharmadhikari, C.J.)

(Ravi R.Tripathi, J.)

(sunil)